UPDATED VERSION AS OF 11/21/2011

Intro. Res. No. 2000-2011 Laid on Table 11/22/2011
Introduced by Legislators Cooper and Muratore

RESOLUTION NO. -2011, ADOPTING LOCAL LAW NO. -2011, A LOCAL LAW TO ESTABLISH A PUBLIC REGISTRY OF UNSCRUPULOUS HOME IMPROVEMENT CONTRACTORS IN SUFFOLK COUNTY ("CONTRACTORS WALL OF SHAME")

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on , 2011, a proposed local law entitled, "**A LOCAL LAW TO ESTABLISH A PUBLIC REGISTRY OF UNSCRUPULOUS HOME IMPROVEMENT CONTRACTORS IN SUFFOLK COUNTY ("CONTRACTORS WALL OF SHAME")**;" now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2011, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO ESTABLISH A PUBLIC REGISTRY OF UNSCRUPULOUS HOME IMPROVEMENT CONTRACTORS IN SUFFOLK COUNTY ("CONTRACTORS WALL OF SHAME")

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk licenses and regulates home improvement contractors.

This Legislature also finds and determines that while the majority of home improvement contractors operating in Suffolk County are upstanding businessmen who are licensed and insured, there are others who try to evade regulation.

This Legislature further finds and determines that operating as a home improvement contractor without a license or with a revoked license is a violation of County law subject to a fine of up to $750 for a first violation, with fines up to $1,500 for each subsequent violation.

This Legislature finds that some home improvement contractors also violate New York State Penal Law by defrauding or stealing from their customers.

This Legislature determines that the public should have access to information on unscrupulous home improvement contractors so that they can avoid falling prey to such contractors' illegal actions.

This Legislature also finds that the Department of Consumer Affairs should establish and maintain an online registry listing the business information of home improvement contractors who have been found to be in grievous violation of the County's licensing laws.

Therefore, the purpose of this law is to establish a registry for persons operating as home improvement contractors in violation of County and State Laws.

Section 2. Definitions.

As used in this law the following terms shall have the meanings indicated:

"FRAUD OR THEFT CRIMES" shall be defined as the commission of the following enumerated crimes: Petit larceny, as defined in the New York State Penal Law ("Penal") § 155.25; Grand larceny in the fourth degree, as defined in Penal § 155.30; Grand larceny in the third degree, as defined in Penal § 155.35; Grand larceny in the second degree, as defined in Penal § 155.40; Grand larceny in the first degree, as defined in Penal § 155.42; False advertising, as defined in Penal § 190.20; Scheme to defraud in the second degree, as defined in Penal § 190.60; Scheme to defraud in the first degree, as defined in Penal § 190.65;

"PERSON" shall be defined as any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business of any kind.

Section 3. Registry Established.

A registry is hereby established which shall contain the names, addresses and licensing information for persons operating as a home improvement contractor in Suffolk County who have been fined for operating without a valid license, had their licenses revoked, or convicted of fraud or theft crimes against their customers. The Department of Information Technology and the Department of Consumer Affairs are hereby directed to establish public online access for this registry.

Section 4. Requirements.

A) Any person who operates as a home improvement contractor in Suffolk County and has been cited for operating without a license, has had his or her home contractor license revoked, or has been convicted of a fraud or theft crime against a home improvement customer must register with the Department of Consumer Affairs within 15 days of receiving such an administrative determination or conviction.

B) Each person required to register with the Contractors Wall of Shame Registry shall submit:

a. Their name,
b. Any aliases they are known under,
c. Their home improvement contractor license information,
d. Their company's name(s) ,
e. Their company's address(es),
f. A photograph of the individual licensee's head and shoulders from the front.

C) Each person required to register with the Contractors Wall of Shame Registry shall remain on the registry for the duration of their non-compliance with the County's licensing laws. Individuals who have been convicted of a fraud or

theft crime shall remain on the Home Improvement License Offender Registry for a period of five (5) years following their release from incarceration or the date judgment was rendered, whichever is later.

D) The Department of Consumer Affairs shall be authorized to provide the most recent information they have for any person who been cited for operating without a license or has had their license revoked and has failed to register in accordance with this law. Such person shall be found in violation of this law for failure to register.

Section 5. Promulgation of Rules and Regulations

The Commissioner of the Suffolk County Department of Consumer Affairs is hereby authorized and empowered to promulgate such rules and regulations necessary to implement this law.

Section 6. Penalties.

Any person required to register with the Contractors Wall of Shame Registry who fails to do so shall be charged with an unclassified misdemeanor and shall be punished by incarceration in a correctional facility for not more than one (1) year and/or a fine of up to one thousand dollars ($1,000.00).

Section 7. Applicability.

This law shall apply to all persons in violation of the home improvement contractor licensing laws codified in Chapter 345 of the SUFFOLK COUNTY CODE on or after the effective date of this law.

Section 8. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 9. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 10. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

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County Executive of Suffolk County

Date: